



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: July 29, 2008

TO: Mayor and Councilmembers

FROM: Administrative Division, Waterfront Department

SUBJECT: Amendments To Municipal Code Title 17 Related To The Waterfront

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Title 17 Sections 17.12.170, 17.16.010, 17.20.005.K, 17.20.220, 17.20.260, 17.28.030 and 17.36.070, Pertaining to Operations at the Waterfront, and Repealing Section 17.20.210.

DISCUSSION:

Waterfront Department staff annually reviews Title 17 of the Santa Barbara Municipal Code to ensure that it provides a legal framework to accurately and adequately implement policies, practices and procedures utilized to fairly, comprehensively and decisively administer Waterfront affairs. Staff recommends amendments to Title 17 it believes are in keeping with these objectives.

Staff has worked with the City Attorney's Office to identify sections of Title 17 it believes need to be added, deleted or amended. Attached to this report is a draft ordinance in a "showing changes" format that indicates recommended changes. Some are minor, others substantive. This report identifies three "issue areas" that constitute substantive amendments to Title 17. Three other non-substantive changes related to the discharge of contaminants into Harbor District waters, mooring or anchoring near swim buoys, and the timing of Business Activity Permit renewals are not addressed in this report, though they are included in the attached draft ordinance. Staff is prepared to answer questions about any of the proposed changes.

17.12.170 Power Driven Vessels and Sail Vessels In Swim Areas

During summer months, the Waterfront Department deploys regulatory buoys ("swim buoys") approximately 200 feet offshore from Leadbetter Beach to East Beach (including West Beach). The swim buoys designate areas intended primarily for swimming. For safety reasons, the Municipal Code currently precludes motor vessels from operating within areas designated by these buoys.

As part of the draft ordinance, staff proposes to also prohibit sail vessels from operating within these areas, for three primary reasons: 1) sail vessels, large or small, pose as great a danger to swimmers as power boats—some, in fact, may be under power when operating; 2) a “close call” between a swimmer and a sailboat operating inside the buoys last summer drew attention to the need for this regulatory change; and 3) a survey of other harbors indicates that those placing these types of buoys generally only allow swimming within their boundaries.

It is important to note that the proposed ordinance includes discretionary language giving the Waterfront Director authority to authorize vessel activity inside the swim buoys. One example is the Sea Shell Association, which operates small sailboats on Sundays off West Beach—an area traditionally used for quiet-water sailing. In addition, human-powered craft such as kayaks would not be prohibited from operating within these areas.

17.20.005 (K) Slip Assignment Policy—Appeals

This section describes the process by which a slip permittee may appeal the Waterfront Director’s decision to terminate a slip permit. Until 2007, Title 17 contained a provision allowing a slip permittee the opportunity to seek a waiver from the Waterfront Director of his/her decision to terminate a slip permit. The permittee was required to demonstrate that the termination would cause them “undue hardship.” If the Waterfront Director denied the waiver request, the permittee could appeal to the Harbor Commission.

In 2007, this section of the Code was amended to remove the waiver provision. This action was taken due to a concern that the waiver request constituted an unnecessary, time-consuming, intermediary step to Harbor Commission review of an appeal and because of ambiguities created by the “undue hardship” requirement.

Staff, however, has since determined that the opportunity to request a waiver from the Waterfront Director *does* have value. The draft ordinance language reinstates the waiver process but requires the slip permittee to state “grounds” for waiver instead of “undue hardship.” This process would allow the appellant to describe whatever facts or circumstances he or she wishes the Waterfront Director, or, ultimately, the Harbor Commission, to consider. In the event that the Waterfront Director denies the waiver request, or if no waiver request is filed, an appeal may still be made to the Harbor Commission. The decision of the Harbor Commission is final.

17.20.220 Impound and Relocation of Vessels

Boaters occasionally dock in Santa Barbara Harbor without permission from the Waterfront Director or without paying visitor slip fees or accrued berthing fees. On occasion they also refuse to leave the Harbor after the 28-day visitor limit.

The amended section of the Municipal Code, which previously only addressed "removal" of vessels for which fees were not paid, adds the authority to impound vessels whose owners do not pay their fees or vessels whose owners dock, berth, moor or anchor in City waters without permission. New language also gives the Department a means by which it can charge impound fees for accrued time spent without permission in the harbor, plus all delinquent berthing fees, before the vessel is released.

The proposed changes will help deter such violations, help the Department enforce its visitor-boat berthing policies and help recover thousands of dollars in berthing fees that might otherwise go unpaid. Allowing impound of such vessels would also allow the City to deny an owner's access to a vessel until payments are made current. This would deter people from berthing illegally and staying aboard their boat without consequence.

CONCLUSION:

Staff believes adoption of the proposed Title 17 amendments will help clarify the Code in ways consistent with its intent and with the fair and comprehensive administration of Waterfront affairs. At its July 15th meeting, the Ordinance Committee unanimously supported the draft changes.

PREPARED BY: Mick Kronman, Harbor Operations Manager

SUBMITTED BY: John N. Bridley, Waterfront Director

APPROVED BY: City Administrator's Office